Service Date: October 31, 1989

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Request of	)	UTILITY DIVISION
the Montana Power Company for an	)	
Extension of the Availability of	)	DOCKET NO. 89.9.37
the Natural Gas Incentive Rate for	)	
Canbra Foods, Ltd.	)	ORDER NO. 5428

* * * * * * * * * *

FINAL ORDER

* * * * * * * * * *

BACKGROUND

On September 11, 1989 the Montana Power Company (MPC or Company) filed a request with the Montana Public Service Commission (Commission) for authority to extend the availability of the Natural gas Incentive Rate (NGI) for Canbra Foods, Ltd.

Notice of this request was provided as an information item on the Commission's regular weekly agenda, and public deliberations by the Commission on MPC's request.

DISCUSSION

In April, 1987, the Commission issued Order No. 5266 (Docket No. 87.3.16), granting interim approval of MPC's proposed Natural Gas Incentive tariff filing. To qualify, an existing customer must increase its load by 60,000 mcf, while a new customer must have a total load exceeding the same amount on anannual basis. To encourage demand, the price floor on the NGI tariff allows MPC to price down to the marginal cost of gas plus nongas costs. Contracts which establish the agreed upon price are renewed annually with customers. The actual sales price will vary by customer. If the alternative fuel price eventually exceeds the otherwise applicable tariffed rate, then the latter substitutes for the NGI price. The tariff is structured so that the customer served pays the entire cost of any needed line extension service facilities. The additional net revenues generated by the NGI are flowed back through to MPC's ratepayers.

Service on the NGI tariff is interruptible, and the 60,000 mcf threshold is based upon the historical consumption level used to establish the availability criteria for the IIGC tariff.

Initially, the NGI rate was available for only three years, and was scheduled to expire on April 21, 1990. MPC indicated that it intended to review the merit of continuing the NGI tariff at that time. The existence of the NGI tariff is premised upon the availability of gas resources at terms which will allow MPC to serve the additional load in such a manner that MPC and its customers will benefit.

On April 17, 1989 MPC filed a request with the Commission to extend the availability of the NGI rate for a period of two years beyond the then current term, to April 20, 1992. In Order No. 5410 (Docket No. 87.8.38), the Commission granted a one year extension of the NGI tariff availability. In support of its decision, the Commission noted the potential for both imminent and significant changes in the day-to-day operations of MPC's gas utility, as it moves toward some form of open access gas transportation.

According to MPC's application, Canbra Foods, Ltd. (Canbra) is planning on opening a canola oil processing facility in Butte, Montana. Part of the package which attracted Canbra to Montana was the availability of gas service under the NGI rate for an extended period of five years. MPC's application states that Canbra would not have located in Montana without the availability of the NGI rate for the term of five years. MPC and Canbra have entered into a contract for natural gas service on these terms.

MPC's application to the Commission also states the following:

a. Additional line extension requirements will be necessary to serve the Canbra natural gas load. These line extension improvements will be the sole responsibility of Canbra.
b. The Canbra natural gas load will total about 1 BCF per year and is fully interruptible. Canbra is planning a back-up system.

c. The NGI rate to Canbra in each year of the contract covers the cost of gas, to which a stream of nongas cost adders will be added.

As previously noted, the Commission recently considered the propriety of generally extending the availability of the NGI tariff, and for various reasons, chose a conservative approach. This approach resulted in an extension of NGI availability to April 20, 1991.

Despite the potential changes on the horizon for MPC's gas utility, the Commission grants MPC's request in this docket. However, a few cautionary observations are appropriate. The Commission is concerned about the potential for negative impacts upon other customers from what amounts to a five-year extension of NGI availability. These impacts may arise whether or not some form of open access gas transportation is ever implemented by MPC. However, this concern is mitigated by the power of the Commission to alter the terms of the MPC-Canbra contract in the future. To the extent the Commission finds that the continued availability of the NGI rate (to Canbra or anyone else) is detrimental to other MPC customers, those receiving service under the tariff should recognize that the Commission may reform their contract for utility service, as necessary in the public interest. The Commission has the authority to modify or supersede a contract between a public utility and its customer if the contract poses an immediate threat to the utility's ability to serve or if the contract adversely affects the utility's rate structure. City of Billings v. Public Service Commission, ____Mont.____, 631 P.2d 1295 (1981).

At this point, the Commission does not believe that MPC's proposal constitutes any kind of undue price discrimination.

Currently, the NGI tariff is available to all those who qualify. In critical part, the continuing existence of the NGI tariff (to customers other than Canbra) depends upon the existence of gas resources at terms which will allow continued service in such a manner which will benefit both MPC and its customers. In the absence of such circumstances, it would be likely that the availability of the NGI tariff to Canbra would also be subject to further scrutiny by this Commission.

Finally, a general comment about the applicability of the NGI tariff is appropriate. Under the NGI tariff conditions, MPC is afforded a great deal of latitude in determining which ratepayers are eligible for service under the NGI. The Commission believes that MPC performs this function responsibly, with the intention of both extracting the maximum amount of revenue from each customer, and recovering relevant opportunity costs. The failure to correctly determine eligibility under the NGI tariff certainly leaves MPC open to later criticism, and raises the spectre of appropriate revenue adjustments or surcharges in a subsequent proceeding.

CONCLUSIONS OF LAW

Applicant, Montana Power Company, is a corporation providing service within the State of Montana and as such is a public utility within the meaning of Section 69-3-107, MCA.

The Montana Public Service Commission properly exercises jurisdiction over the Applicant's Montana operations pursuant to Title 69, Chapter 3, MCA.

The Commission has provided adequate notice and an opportunity to be heard to all interested parties in this Docket, Title 2, Chapter 4, MCA.

ORDER

1. The application of the Montana Power Company in this proceeding, as described herein, is Granted.

2. The Applicant, Montana Power Company must file a revised Natural Gas Incentive (NGI) tariff reflecting the Commission's approval of the modified availability criteria.

Done and Dated this 30th day of October, 1989 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Vice Chairman

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.